

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN CARR,

Plaintiff,

v.

SIEMENS DEMATIC CORP., et al.,

Defendants.

Civil Action No. 05-10445-RBC

ASSENTED-TO MOTION TO AMEND THE MARCH 9, 2007 SCHEDULING ORDER

Siemens Dematic Corp. and AMEC Construction Management, Inc. (collectively, "Defendants") hereby respectfully submit this Assented-To Motion to Amend the Court's Scheduling Order of March 9, 2007 so that the Parties may mediate the matter before a private mediator prior to engaging in Summary Judgment motion practice before the Court. In support of this motion, Defendants state as follows:

- (1) On March 9, 2007, the Court held a status conference in this matter.
- (2) During the conference, the Parties indicated to the Court that they had agreed in principle to mediate the matter before a private mediator.
- (3) During the conference, Defense counsel also sought leave from the Court to file a Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.
- (4) After discussing with the Parties the timing of the proposed mediation and Motion for Summary Judgment, the Court ruled that the Parties are to complete Summary Judgment

Motion practice by May 29, 2007¹ and to engage in mediation upon the completion of this motion practice. *See* Scheduling Order, dated March 9, 2007, attached hereto as Exhibit A, and Electronic Clerk's Notes, dated March 9, 2007, attached hereto as Exhibit B. The Court indicated that it would not act on the Motion for Summary Judgment before it until counsel advised the Court as to the results of the mediation. *See* Ex. B.

(5) Since the conference, the Parties have discussed the details of the proposed mediation and agreed that, in the interest of efficiency, the settlement process will be better facilitated if the Parties mediate the matter prior to engaging in motion practice before the Court. The Parties have engaged the Honorable James V. Ryan to serve as mediator for this matter and all parties have reserved May 22, 2007 as a date for mediation.

(6) The Parties propose the following Summary Judgment briefing schedule should they fail to reach a settlement through mediation on May 22, 2007:

(a) Defendants to submit the Motion for Summary Judgment on or before the close of business on June 15, 2007;

(b) Plaintiff to submit his Opposition to the Motion for Summary Judgment on or before the close of business on July 6, 2007; and

(c) Defendants to submit a Reply to the Opposition to the Motion for Summary Judgment on or before the close of business on July 17, 2007.

CONCLUSION

Wherefore, in light of the Parties' agreement as to the benefit of proceeding with mediation prior to engaging in motion practice, and the Parties' arrangement and scheduling of

¹ According to the Scheduling Order, Defendants are to submit their Motion for Summary Judgment on or before the close of business on April 27, 2007, Plaintiff is to submit his Opposition to the Motion for Summary Judgment on or before the close of business on May 18, 2007, and Defendants are to submit their Reply to the Opposition to the Motion for Summary Judgment on or before the close of business on May 29, 2007. *See* Ex. A.

the Honorable James V. Ryan to mediate the matter, the Parties respectfully request that the Court amend the March 9, 2007 Scheduling Order to allow the Parties to engage in mediation on May 22, 2007 and to adhere to the proposed motion schedule set forth above should they fail to settle the matter through mediation.

Respectfully Submitted,

Defendants
SIEMENS DEMATIC CORP.

and

AMEC CONSTRUCTION
MANAGEMENT, INC.

By their attorneys,

/s/ Gabriel D. O'Malley
Matthew M. Burke (BBO # 557281)
Gabriel D. O'Malley (BBO # 651432)
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
(617) 951-7000

Dated: April 11, 2007

EXHIBIT A

United States District Court District of Massachusetts

JOHN CARR,
Plaintiff,

V.

CIVIL ACTION NO. 05-10445-RBC

SIEMENS DEMATIC CORPORATION,
Defendant.

SCHEDULING *ORDER RE: SUMMARY JUDGMENT* *MOTIONS - RULE 16(b), FED. R. CIV. P.*

COLLINGS, U.S.M.J.

The Court enters the within Scheduling Order Re: Summary Judgment Motions pursuant to Rule 16(b), Fed. R. Civ. P.:

The defendant is granted leave to file and serve a motion for summary judgment *on or before the close of business on Friday, April 27, 2007*. The motion shall be accompanied by a memorandum in support together with any materials in support provided the materials comply with the requirements of Rule 56(e), F.R. Civ. P. The plaintiff is granted leave to file an opposition to the motion for summary judgment *on or before the close of business on Friday, May*

18, 2007. The opposition shall be accompanied by a memorandum in opposition together with any materials in opposition provided the materials comply with the requirements of Rule 56(e), F.R. Civ. P. No memorandum in support or in opposition a motion for summary judgment shall exceed twenty (20) pages in length. *See* Local Rule 7.1(a)(4).

Any memorandum in support of a motion for summary judgment shall point out the undisputed facts upon which the motion is based with specific reference to affidavits, depositions, or other documentation. Any memorandum in opposition to a motion for summary judgment shall contain a listing of material facts asserted to be in dispute similarly referenced. *See* Local Rule 56.1. Any requests for hearing on the motion shall be made in accordance with Local Rule 7.1(c).

The defendant is granted leave to file a reply memorandum (not to exceed seven pages each) *on or before the close of business on Tuesday, May 29, 2007.*

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

March 9, 2007.

EXHIBIT B

Full docket text:

ElectronicClerk's Notes for proceedings held before Judge Robert B. Collings: Status Conference held on 3/9/2007. Defendant may file a motion for sumary judgment by cob 4/27/2007; plaintiff may file an opposition by cob 5/18/2007; defendant may file a reply memorandum (not to exceed seven pages) by cob 5/29/2007. Order to issue. Counsel to arrange for mediation before a private mediator; the Court shall not act on the motion for summary judgment until counsel advises the Court as to the results of the mediation. (Digital Recording: 12:55:59-1:17:15)

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